

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

KAREN N. MILLER, <i>et al.</i>	:	Case No. C-1-00-403
Plaintiffs,	:	(Judge Dlott)
v.	:	<u>MOTION TO VACATE</u>
CREDIT COUNSELORS	:	<u>CURRENT SCHEDULE</u>
OF CINCINNATI	:	<u>AND FOR NEW</u>
Defendant.	:	<u>SCHEDULING ORDER</u>

Now come Plaintiffs and the Class, by their undersigned counsel, and respectfully request this Court to vacate the entire current schedule regarding the class settlement, including the Fairness Hearing date, currently October 24, 2003, and to reset them as set forth in the memorandum in support of this motion.

Respectfully submitted,

/s/ Stephen R. Felson

---

Robert B. Newman (0023484)  
Lisa T. Meeks (0062074)  
NEWMAN & MEEKS CO., LPA  
617 Vine Street, Suite 1401  
Cincinnati, Ohio 45202  
(513) 639-7000  
[www.newmanandmeeks.com](http://www.newmanandmeeks.com)

Stephen R. Felson (0038432)  
617 Vine Street, Suite 1401  
Cincinnati, Ohio 45202  
(513) 721-4900  
(513) 639-7011 (fax)  
[SteveF8953@aol.com](mailto:SteveF8953@aol.com)

COUNSEL FOR THE CLASS

Miller v. CCC  
Mot to Vacate Scheduling  
10/8/03, Page 2

## MEMORANDUM

This Class Action Settlement was preliminarily approved by this Court by Order dated July 8, 2003 (doc. 61). The Court's Order defines the Class as follows:

The action will be maintained on behalf of a class composed of all persons who signed debt management agreements with credit Counselors of Cincinnati or Credit Counselors Corporation (collectively, "CCC") **during the period beginning May 17, 1995 and ending June 30, 2001** and who made payments to CCC for credit-relate services ("the Class").

In preparation for the Settlement, Defendant produced a database on a CD-Rom that purported to contain the names, addresses and payment information of all Class members. In accordance with this Court's order, the Special Master mailed class Notices to the 6,920 persons listed in the database. While calculating the potential amounts to be sent to each Qualified Class Member (those who timely returned a Proof of Claim) the Master became aware that one of the Class Plaintiffs was not included in the database. Subsequent investigation confirmed that the database provided by Defendant does not contain the names of all members of the class. Instead of all customers from the period May 15, 1995 to June 30, 2001, the database provided to the Special Master contains names, addresses and payment information concerning customers of CCC from the period March 31, 1997 to June 30, 2001 only. Thus, Class Members whose contact with CCC began in the period May 17, 1995 to March 30, 1997 did not receive Notice of the Class Action Settlement.

Miller v. CCC  
Mot to Vacate Scheduling  
10/8/03, Page 3

Upon further investigation the Settlement Master has determined that approximately 3,725 Class Members fall within this group. Each of these persons who timely returns a Proof of Claim will be entitled to payment from the Settlement Fund. Based upon experience to date, the Special Master estimates that approximately 20% will do so.

The Master also estimates that her office can send out a revised Class Notice within fifteen days of an Order of this Court permitting same. The Special Master and Counsel do not believe it is necessary to incur the cost of notifying Class Members on the original list of the revised schedule, as no Class Member registered to attend the Fairness Hearing by the October 5, 2003 deadline. If the Special Master receives any inquiries about the Fairness Hearing, she will advise individuals of the new date. If this Motion is granted, the Special Master also intends to accept a Proof of Claim from any Class Member until the new deadline, even if the Class Member received the original Notice.

In order to finalize the settlement in the year 2003, thus avoiding the expense of filing a second tax return, Class Counsel request that this Court issue an amended Scheduling Order containing the following dates and deadlines:

1. The Class Notice, Proof of Claim and Addendum containing new dates and deadlines are to be mailed no later than fifteen (15) days after the Entry of the Court's Order vacating the current schedule and setting forth a revised schedule;
2. To be considered timely, a Proof of Claim must be submitted by a Class Member no later than November 14, 2003;

Miller v. CCC  
Mot to Vacate Scheduling  
10/8/03, Page 4

3. Any Class Member wishing to exercise the right to opt out of the Class must do so by informing the Clerk of the Court in writing of his or her decision to do so on or before November 21, 2003;

4. Any Class Member who has not opted out of the Class and who wishes to submit a written objection to any aspect of the Agreement may do so in writing without the necessity of retaining counsel or making any formal appearance, provided that, no later than 5:00 p.m. on November 21, 2003, such comments are filed with the Court and served on counsel and the Court in accordance with this Court's previous order.

5. A Fairness Hearing to determine whether to grant final approval of the Settlement will be held on December 3, 2003, at 3:00 p.m. Any Class Member wishing to be heard at the Fairness Hearing must file with the Court and serve on counsel a written notice of intent to appear no later than 5:00 p.m. on November 21, 2003, and served on counsel and the Court in accordance with this Court's previous order.

6. The motion for final approval and for approval of attorney fees, costs and incentive award, along with a certificate from the Master regarding class administration and the cost thereof, shall be filed with the Court by November 26, 2003.

All other matters set forth in this Court's previous Orders should remain unchanged.

### **CONCLUSION**

For the foregoing reasons, and in the interest of fairness, this Motion to Vacate Current Schedule and for New Scheduling Order should be granted.

Miller v. CCC  
Mot to Vacate Scheduling  
10/8/03, Page 5

Respectfully submitted,

/s/ Stephen R. Felson

---

Robert B. Newman (0023484)  
Lisa T. Meeks (0062074)  
NEWMAN & MEEKS CO., LPA  
617 Vine Street, Suite 1401  
Cincinnati, Ohio 45202  
(513) 639-7000  
[www.newmanandmeeks.com](http://www.newmanandmeeks.com)

Stephen R. Felson (0038432)  
617 Vine Street, Suite 1401  
Cincinnati, Ohio 45202  
(513) 721-4900  
(513) 639-7011 (fax)  
[SteveF8953@aol.com](mailto:SteveF8953@aol.com)

### **CERTIFICATION**

I hereby certify that on October 8, 2003, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following: James M. Moore, 312 Walnut Street, Suite 2300, Cincinnati, Ohio, 45202.

/s/ Stephen R. Felson